

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

MICHAEL O'CALLAGHAN,

Plaintiff,

v.

**CITY OF PORTLAND, MAYOR TED
WHEELER, POLICE CHIEF DANIELLE
OUTLAW, PACIFIC PATROL
SERVICES, and RAPID RESPONSE BIO
CLEAN,**

Defendants.

Case No. 3:18-cv-1641-YY

ORDER

Michael H. Simon, District Judge.

United States Magistrate Judge Youlee Y. You issued Findings and Recommendations (“F&R”) in this case on September 24, 2019. ECF 80. Magistrate Judge You recommended that the motions to dismiss filed by Pacific Patrol Services, Mayor Ted Wheeler, Police Chief Danielle Outlaw, and Rapid Response Bio Clean (ECF 73, 75, 76) should be **GRANTED** and that Plaintiff Michael O’Callaghan’s amended complaint (ECF 70) should be **DISMISSED WITH PREJUDICE**. The Court **ADOPTS** the Findings and Recommendations.

Under the Federal Magistrates Act (“Act”), the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C.

§ 636(b)(1). If a party files objections to a magistrate judge’s findings and recommendations, “the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

For those portions of a magistrate judge’s findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review *de novo* magistrate judge’s findings and recommendations if objection is made, “but not otherwise”). Although in the absence of objections no review is required, the Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the Court review the magistrate judge’s recommendations for “clear error on the face of the record.”

Mr. O’Callaghan filed an “answer to motion to dismiss” in response to Judge You’s F&R. ECF 82. The Court construes this filing as Mr. O’Callaghan’s objections to Judge You’s F&R. Pacific Patrol Services, the City of Portland, Mayor Ted Wheeler, and Police Chief Danielle Outlaw filed responses to the objections (ECF 84, 85). Rapid Response Bio Clean did not file a response. None of the defendants filed objections.

The Federal Rules of Civil Procedure require a party to “file specific written objections to the proposed finding and recommendations.” Fed. R. Civ. P. 72(b). Mr. O’Callaghan does not specify a portion of Judge You’s F&R to which he objects. Instead, he briefly restates the allegations of his amended complaint. That does not meet Rule 72(b)’s “specific written

objection[]” requirement and amounts to a “general” objection. *Id.* The Court cannot consider general objections, and thus reviews Judge You’s F&R as if Mr. O’Callaghan had not objected. *See Ben-Salah v. Sterling Jewelers Inc. of Delaware*, No. 2018 WL 557843, at *1 (D. Or. Jan. 25, 2018), *aff’d sub nom. Ben-Salah v. Sterling Jewelers, Inc.*, 770 F. App’x 869 (9th Cir. 2019) (reviewing de novo only issues to which plaintiff specifically objected).

For those portions of Judge You’s Findings and Recommendations to which neither party has objected, this Court follows the recommendation of the Advisory Committee and reviews those matters for clear error on the face of the record. No such error is apparent.

The Court **ADOPTS** Judge You’s Findings and Recommendation. This case will be **DISMISSED WITH PREJUDICE**.

IT IS SO ORDERED.

DATED this 16th day of March, 2020.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge